

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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CLM PARTNERS LLC,
Plaintiff,

vs.

FIESTA PALMS, LLC, et al,
Defendants.

2:11-CV-01387-PMP-CWH

ORDER

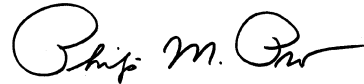
Defendants' fully briefed Motion for Summary Judgment (Doc. #43) addresses two interesting and critical questions. Has Plaintiff failed to provide competent evidence of damages, and are Plaintiff's efforts to orally modify the January 4, 2011 letter/agreement with Defendants violative of the Statute of Frauds?

At the hearing on Defendants' Motion for Summary Judgment conducted April 25, 2013, counsel for Defendant argued persuasively that Plaintiff's claim that it is entitled to incentive bonus damages is grounded in speculation and guesswork, and that even under the best case scenario portrayed by Plaintiff, Plaintiff's claim of entitlement to incentive bonuses is capped at \$691,000.00. The Court finds on the record presented that Defendants' counsel is correct on the latter point, but that genuine issues of material fact remain as to whether Plaintiff is entitled to any incentive bonuses up to the \$691,000.00 sum. Similarly, the Court finds genuine issues of material fact remain as to whether Plaintiff's claim is barred by Nevada's Statute of Frauds. NRS 111.220(1).

1 **IT IS THEREFORE ORDERED** that Defendants' Motion for Summary
2 Judgment (Doc. #43) is **DENIED** except to the extent that any claim by Plaintiff of
3 entitlement to incentive bonus payments shall be limited to a sum no greater than
4 \$691,000.00.

5 **IT IS FURTHER ORDERED** that the Parties shall have to and including
6 **June 5, 2013** within which to file a Joint Pretrial Order in compliance with the Local
7 Rules of this Court.

8 DATED: April 29, 2013.

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PHILIP M. PRO
12 United States District Judge
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